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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.1053 of 1998

Petitioner : Rajkumar Soni, son of Shri Banshilal Soni, aged about 28 years, R/o. village Toria, Tahsil Abhanpur, Distt. Raipur.

Versus

Respondents

1. Union of India through the Secretary, Govt. of India, Ministry of Ground Water, New Delhi.
2. Central Ground Water Board, Govt. of India, through Executive Engineer, Central Ground Water Board, Division XIII, Telebandha Naka, Raipur - 492006, M.P.
3. Executive Engineer, Central Ground Water Board, Division XIII, Telebandha Naka, Raipur.

(Petition under Articles 226/227 of the Constitution of India)

Single Bench: Hon'ble Justice Shri Satish K. Agnihotri

Present : Dr. Shailesh Ahuja, counsel for the petitioner.
Shri S.K. Beriwal, counsel for the respondents.

ORDER
(Passed on 27th July, 2007)

The petitioner pursuant to the advertisement issued in the year 1997 (Annexure P-9), the petitioner along with others made an application for appointment on the post of Cleaner. The advertisement provided that the candidates should be 8th class pass with two years experience as Cleaner. The advertisement further provides that the appointment is purely temporary and the candidates registered with the Employment Exchange would be given priority in selection.

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2. According to learned counsel for the petitioner, the name of the petitioner was properly registered with the Employment Exchange and the selected persons were not registered with the Employment Exchange and as such, priority should have been given to the petitioner in appointment on the post of the Cleaner. Learned counsel for the petitioner further submits they out of seven, one Shri Abdul Haque Ansari was the nephew of the respondent No. 3 i.e. Appointing Authority. Learned counsel next submits that it is a case of discrimination and nepotism. The candidates were selected and appointed in July, 1998.

3. Per contra, Shri S.K. Beriwal, learned counsel appearing for the respondents submits that the petitioner has made an allegation of nepotism and has challenged the validity of the selection of seven persons, without impleading them as necessary parties. Learned counsel further submits that the petition be dismissed on this ground alone. It was next contended that there was no question of 'pick and choose' and the selection was fair. Seven persons were selected out of 233 applications received and the petitioner was one of the applicant. On selection, the selected candidates were found most suitable to the post and thus, they were accordingly selected.

4. Having heard learned counsel appearing for the parties and having perused the pleadings and documents appended thereto, it is evident that the petitioner has filed this petition seeking a direction to quash the selection of seven persons i.e. Abdul Haque Ansari, Mohammad Shaahid, Sonu Tiwari, Kamleshwar Sahu, Mohanlal Verma, Premsingh and Vishwambhar Sahu, without impleading them

as necessary parties. There are certain allegation also against the said person that one of them is close relation i.e. nephew of the Appointing Authority. The first and foremost requirement of the fair-play in action and principle of natural justice is that no adverse order visiting with civil consequence be passed without affording an opportunity of hearing to the person concerned.

5. In the present case, selection cannot be quashed without affording an opportunity of hearing to the selected candidates. The petitioner has not chosen to implead them as necessary parties and on this ground alone this petition deserves to be dismissed. Even on merit, there is nothing to prove that there was any discrimination in selection of seven persons, out of 233 applicants.

6. With regard to the contention that the applicant should have been registered with the Employment Exchange, it is found that this was not a pre condition in the advertisement, but the advertisement provides for priority to those persons, who were registered with the Employment Exchange. This also could not be established asto whether seven persons were registered in the Employment Exchange, except the self-same statement of the learned counsel for the petitioner. Thus, there is nothing in the merit also.

7. As a result and in view of the foregoing reasons, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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